

AMENDED IN SENATE AUGUST 24, 2006

AMENDED IN SENATE AUGUST 17, 2006

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN SENATE JUNE 27, 2006

AMENDED IN SENATE JUNE 14, 2006

AMENDED IN ASSEMBLY APRIL 24, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 2125**

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### Introduced by Assembly Member Vargas

February 21, 2006

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An act to amend Sections 24, 673, 677, 700, 728, 738, 739.5, 739.6, 739.12, 1010, 1063.1, 1063.5, 1064.12, 1077.1, 1215.13, 1656, 1676, 1679, 1707, 1733, 1775.4, 1808, 11521.6., 11629.85, ~~11778~~, and ~~11797 and 11778 of~~, and to add Sections 881.2, 1064.13, and 11549 to, the Insurance Code, and to amend Section 12253 of the Revenue and Taxation Code, relating to insurance.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2125, as amended, Vargas. Insurance.

Existing law regulates the business of insurance, including worker's compensation insurance.

This bill would make numerous changes in the law regulating insurance including workers' compensation insurance.

Among other things, this bill would revise provisions relating to the authority of the Insurance Commissioner to revoke or suspend the State Compensation Insurance Fund's authority to transact workers'

compensation insurance. This bill would provide that the fund shall be subject to the powers and authority of the commissioner to the same extent as any other insurer transacting workers' compensation insurance, except where specifically exempted by reference in the provisions of law regulating insurance. This bill would, however, provide that the commissioner may not revoke or suspend the fund's authority to transact workers compensation insurance. This bill would also exempt the fund from the requirement that a court issue an order vesting title to an insurer's assets in the commissioner under specified circumstances. It would instead require the commissioner to issue a report, as specified, *authorize the Governor, in consultation with the Legislature, to replace the fund's president with a recovery administrator, as specified*, and require the governor to direct a course of action to be implemented by the fund's board of directors. This bill would also exempt the fund from delinquency proceedings for insurers and prohibit the commissioner from imposing administrative supervision on it unless it consents. This bill would also allow the fund's board to appoint up to 12 positions, as specified, and fix the salaries of those positions. ~~The bill would also allow the fund to invest in excess funds investments in the same manner as private insurers, except as specified.~~

As to other types of insurance, the bill would, among other things, revise provisions relating to cancellation and reinstatement of financed insurance, codify current policy of the Department of Insurance regarding agents of nonresident licensees, as specified, modify insurer liquidation procedure, and change the definition of "commercially domiciled insurer" for purposes of regulating insurance holding companies. The bill would also provide that the Insurance Commissioner may approve a name using the words "savings bank" if the entire title shows that the insurer is engaged in the business of insurance and is not a savings bank. Further, the bill would modify the definition of "insolvent insurer" and modify the California Insurance Guarantee Association refund policy. This bill would also allow the commissioner to create an examination for life agents solely for funeral and burial policies, as specified. This bill would also provide for the merger of foreign and domestic mutual holding companies and require surplus lines brokers who make late monthly payments of premium taxes to pay interest, as specified. This bill would also revise provisions that require the commissioner to prepare and propose a

plan regarding low-cost automobile insurance to the relevant Senate and Assembly committees, as specified.

This bill would also make technical, nonsubstantive changes in the law.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 24 of the Insurance Code is amended to  
2 read:

3 24. "Admitted," in relation to a person, means entitled to  
4 transact insurance business in this State, having complied with  
5 the laws imposing conditions precedent to transaction of such  
6 business. The State Compensation Insurance Fund shall be  
7 deemed to be admitted pursuant to authority to transact workers'  
8 compensation insurance granted by the Legislature. The  
9 commissioner shall not revoke or suspend the State  
10 Compensation Insurance Fund's authority to transact workers'  
11 compensation insurance.

12 SEC. 2. Section 673 of the Insurance Code is amended to  
13 read:

14 673. (a) As used in this section, "exercise the right to cancel"  
15 means the act of formally electing to use the right of the insured  
16 to cancel any insurance policy in accordance with and subject to  
17 the provisions of that policy when the right to use that right of the  
18 insured has been transferred or assigned by the insured in writing  
19 executed by, or on behalf of, the insured to a lender who has  
20 advanced to the insurer the premium for the policy. The transfer  
21 or assignment may be by power of attorney or other document.  
22 The transfer or assignment may, but need not, be accompanied  
23 by an assignment of any unearned premium due the insured on  
24 cancellation.

25 (b) No lender shall exercise the right to cancel a financed  
26 insurance policy because of the default of the insured under a  
27 premium payment loan agreement except in accordance with this  
28 section.

29 (c) Written notice of the exercise of the right to cancel shall be  
30 mailed by the lender to the insurer and to the insured at the  
31 address shown on the premium payment loan agreement or his or

1 her last known address, specifying a date five days or more after  
2 the date of mailing of such notice as the effective date of  
3 cancellation. Any insurer may, in writing delivered to the lender,  
4 waive, generally or specifically, the right to receive such notice  
5 or notices. A copy of such notice may be mailed to the producer  
6 of record if known to the lender, but failure to do so shall not  
7 affect any rights granted by this section. This subdivision shall  
8 not apply to an industrial loan company.

9 (d) An industrial loan company shall, in giving the insured 10  
10 days' notice of its intent to cancel pursuant to Section 18608 of  
11 the Financial Code, furnish a copy of such notice to the insurance  
12 agent or insurance broker indicated on the premium finance  
13 agreement. After expiration of the 10-day period, the industrial  
14 loan company may thereafter, in the name of the insured, cancel  
15 the insurance contract or contracts by mailing to the insurer a  
16 written notice of cancellation, and the insurance contract shall be  
17 canceled as if the notice of cancellation had been submitted by  
18 the insured person, but without requiring the return of the  
19 insurance contract or contracts. The industrial loan company  
20 shall also mail a notice of cancellation, setting forth the effective  
21 date of cancellation of the finance insurance contract, to the  
22 insured at his or her last known address and to the insurance  
23 agent or insurance broker indicated on the premium finance  
24 agreement. For the purposes of this subdivision, the words  
25 "premium finance agreement" shall have the same meaning as  
26 that specified in Section 18564 of the Financial Code.

27 (e) A written exercise of that right containing a confirmation  
28 of the effective date of cancellation shall be mailed by the lender  
29 to the insurer within five days following that effective date of  
30 cancellation specified in the notice described in subdivision (c)  
31 unless the insured has cured any and all defaults. Cancellation  
32 shall be effective on the financed insurance policy without  
33 requiring the return of the insurance policy or insurance policies,  
34 except as provided in subdivisions (f) and (g), on the  
35 confirmation date specified in the written exercise of that right.  
36 This subdivision shall not apply to an industrial loan company.

37 (f) All statutory, regulatory, and contractual restrictions  
38 providing that the financed insurance policy may not be canceled  
39 unless notice is given to a governmental agency, mortgagee, or  
40 other third party shall apply where cancellation is effected under

1 this section. The insurer shall give the prescribed notice on behalf  
2 of itself or the insured to any governmental agency, mortgagee,  
3 or other third party on or before the fifth business day after the  
4 day it receives the written exercise of cancellation right  
5 containing confirmation of the cancellation date from the lender,  
6 as provided in subdivision (e), or a written notice of cancellation  
7 from an industrial loan company, pursuant to subdivision (d), and  
8 shall, for the purpose of the notice, determine the effective date  
9 of cancellation as to those persons mentioned in this subdivision  
10 only, taking into consideration the number of days' notice  
11 required to complete the cancellation.

12 (g) Whenever such a financed insurance policy is canceled by  
13 any party for any reason:

14 (1) The insurer shall, in accordance with the written  
15 agreements of which it has notice, return to the lender such  
16 unearned premiums as are due to the lender. The amount of the  
17 return premiums shall be based upon the confirmed date of  
18 cancellation specified in subdivision (e), or upon the written  
19 notice of cancellation specified in subdivision (d) in the case of  
20 an industrial loan company, lessened by the amount, if any, to  
21 compensate equitably the insurer for carrying the risk of loss as  
22 to any governmental agency, mortgagee, or other parties  
23 specified in subdivision (f) from that date to the effective date of  
24 cancellation as to those parties.

25 (2) When a financed insurance policy is canceled, or the  
26 insured discontinues payments to a lender, the insurer shall  
27 calculate the return premium on a pro rata basis. This paragraph  
28 shall not apply to any policy issued under an assigned risk plan  
29 or to any policy with respect to which the insurer has made a loan  
30 to the insured for the purposes of payment of premiums for the  
31 policy.

32 (h) The commissioner may amend the rules and regulations of  
33 any assigned risk plan, fair plan, or similar plan to provide for the  
34 equitable assignment of insurance risks among insurers now in  
35 existence or hereafter established, in such manner as may be  
36 necessary to carry out the purposes of this section.

37 (i) A lender which sends a written exercise of cancellation  
38 right or a written notice of cancellation to an insurer, as provided  
39 in subdivision (c), or subdivision (d) in the case of an industrial  
40 loan company, thereby represents that he or she has a valid right

1 to do so and to receive the unearned premium. If the lender  
2 thereby accomplishes the cancellation and receives an unearned  
3 premium, such representation shall be conclusive as between the  
4 insurer and the lender. An insurer relying upon the written  
5 exercise of that right containing a confirmation of cancellation  
6 date and giving, when applicable, notice as required by  
7 subdivision (e), shall be relieved from complying with any other  
8 duty or form of cancellation required by this code.

9 (j) This section shall not apply where the insurer exercises its  
10 own right to cancel the policy for nonpayment of premium, direct  
11 or indirect, or otherwise. Such a cancellation shall be subject to  
12 all applicable provisions of the policy, this code, except this  
13 section, and any rights of the lender of which the insurer has  
14 written notice.

15 (k) Whenever a lender or industrial loan company cancels a  
16 policy as described in this section and then requests the insurer to  
17 reinstate the policy, the insurer shall provide written notice by  
18 mail to the insured, agent/broker, and lender or industrial loan  
19 company within 15 days that the reinstatement has been accepted  
20 or rejected.

21 (l) This section shall apply only to contracts entered into  
22 between an insured and a lender on or after January 1, 1974.

23 SEC. 3. Section 677 of the Insurance Code is amended to  
24 read:

25 677. (a) All notices of cancellation shall be in writing, mailed  
26 to the named insured at the address shown in the policy, or to his  
27 or her last known address, and shall state, with respect to policies  
28 in effect after the time limits specified in Section 676, (1) which  
29 of the grounds set forth in Section 676 is relied upon, and, in  
30 accordance with the requirements of subdivisions (a) and (e) of  
31 Section 791.10, and (2) the specific information supporting the  
32 cancellation, the specific items of personal and privileged  
33 information that support those reasons, if applicable, and  
34 corresponding summary of rights.

35 (b) For purposes of this section, a lienholder's copy of those  
36 notices shall be deemed mailed if, with the lienholder's consent,  
37 it is delivered by electronic transmittal, facsimile, or personal  
38 delivery.

39 SEC. 3.1. Section 700 of the Insurance Code is amended to  
40 read:

1     700. (a) A person shall not transact any class of insurance  
2 business in this state without first being admitted for that class.  
3 Except for the State Compensation Insurance Fund as authorized  
4 by Sections 11770 and 11778 to 11780.5, inclusive, admission is  
5 secured by procuring a certificate of authority from the  
6 commissioner. The certificate shall not be granted until the  
7 applicant conforms to the requirements of this code and of the  
8 laws of this state prerequisite to its issue.

9     (b) The unlawful transaction of insurance business in this state  
10 in willful violation of the requirement for a certificate of  
11 authority is a public offense punishable by imprisonment in the  
12 state prison, or in a county jail not exceeding one year, or by fine  
13 not exceeding one hundred thousand dollars (\$100,000), or by  
14 both that fine and imprisonment, and shall be enjoined by a court  
15 of competent jurisdiction on petition of the commissioner.

16     (c) After the issuance of a certificate of authority, the holder  
17 shall continue to comply with the requirements as to its business  
18 set forth in this code and in the other laws of this state, including,  
19 but not limited to, Chapter 5 (commencing with Section 1631),  
20 with regard to employees or contractors who solicit, negotiate, or  
21 effect insurance.

22     (d) Where a hearing is held under this section the proceedings  
23 shall be conducted in accordance with Chapter 5 (commencing  
24 with Section 11500) of Part 1 of Division 3 of Title 2 of the  
25 Government Code, and the commissioner shall have all the  
26 powers granted therein.

27     (e) The commissioner shall either issue or deny an application  
28 for a certificate of authority within 180 calendar days after the  
29 date of the application.

30     (f) The commissioner and his or her authorized representative  
31 shall be prohibited from seeking a waiver to extend the 180  
32 calendar day period specified in subdivision (e), nor shall the  
33 applicant be permitted to waive that period.

34     SEC. 3.2. Section 728 of the Insurance Code is amended to  
35 read:

36     728. (a) For the purposes of this section, the following  
37 definitions are applicable:

38     (1) "Subject person" means any director, officer, or employee  
39 or other natural person who participates in the management,  
40 direction, or control of an insurer.

(2) “Insurer” means any domestic insurer, and any insurer which is admitted to transact insurance in this state, provided that if a subject person of an insurer is not a resident of California, or operating out of a place of business within California, then the subject person shall be engaged in the direct management, direction, or control of the insurer in California in order to come within the provisions of this section.

(b) If, after notice and a hearing, the commissioner finds all of the following, the commissioner may issue an order removing a subject person from his or her office or employment with the insurer and prohibiting the subject person from further participating in any manner in the conduct of the business of the insurer, except with the prior consent of the commissioner:

(1) The subject person has engaged in repeated acts of misconduct with respect to the operations of an insurer which have resulted in substantial financial loss to an insurer.

(2) The misconduct which forms the pattern is fraudulent, or consists of willful acts or omissions involving personal dishonesty in the acceptance, custody, or payment of money or property on the part of the subject person which has endangered or is likely to endanger the solvency of the insurer.

(3) The pattern of misconduct is relevant in that it demonstrates unfitness to continue as a subject person.

(c) (1) If the commissioner gives written notice pursuant to subdivision (b) to a subject person, the commissioner may immediately issue an order suspending the subject person from his or her office or employment with the insurer and prohibiting the subject person from further participating in any manner in the conduct of the business of an insurer, except with the prior consent of the commissioner if the commissioner: (A) finds that failure to immediately issue such order threatens the financial solvency of the insurer or may otherwise cause immediate and irreparable financial injury to the insurer (B) serves that subject person and the insurer with written notice of the suspension order; and (C) finds that all of the necessary factors are present which would permit the commissioner, after notice and a hearing, to issue an order pursuant to subdivision (b) removing a subject person from his or her office or employment with the insurer and prohibiting the subject person from further participating in any manner in the conduct of the business of an insurer.



1 (2) Any suspension order issued pursuant to paragraph (1) of  
2 this subdivision shall be effective until the date the commissioner  
3 dismisses the charges contained in the notice served under  
4 subdivision (b) or paragraph (1) of this subdivision, the effective  
5 date of an order issued by the commissioner pursuant to  
6 subdivision (b), or a court issues a stay of the order pursuant to  
7 subdivision (d).

8 (d) Within 10 days after a subject person has been served with  
9 an order of suspension pursuant to subdivision (c), the person  
10 may apply to the superior court of the county in which the  
11 principal office of the insurer is located for a stay of the order  
12 pending completion of the proceedings pursuant to subdivision  
13 (b), and the court shall have jurisdiction to issue an order staying  
14 the suspension. Nothing in this subdivision shall be deemed to  
15 authorize the court to issue a stay order on an ex parte basis.

16 (e) (1) If the commissioner finds both of the following, he or  
17 she may immediately issue an order suspending a subject person  
18 from his or her office or employment with an insurer and  
19 prohibiting the subject person from further participating in any  
20 manner in the conduct of the business of an insurer, except with  
21 the prior consent of the commissioner: (A) the subject person has  
22 been charged in an indictment issued by a grand jury, or in an  
23 information, complaint, or similar pleading issued by a United  
24 States Attorney, district attorney, or other governmental official  
25 or agency authorized to prosecute crimes, with a crime  
26 punishable by imprisonment for a term exceeding one year and  
27 which involves as one of its necessary elements a fraudulent act  
28 or an act of dishonesty in the acceptance, custody, or payment of  
29 money or property; and (B) that a failure to immediately issue the  
30 order threatens the financial solvency of the insurer, or may  
31 otherwise cause immediate and irreparable financial injury to the  
32 insurer.

33 In the event the criminal proceedings are terminated other than  
34 by judgment of conviction, an order issued pursuant to paragraph  
35 (1) of this subdivision shall be deemed rescinded as if it had not  
36 been issued.

37 (2) If the commissioner finds both of the following, he or she  
38 may immediately issue an order removing a subject person from  
39 his or her office or employment with an insurer and prohibiting  
40 the subject person from further participating in any manner in the

1 conduct of the business of the insurer, except with the prior  
2 consent of the commissioner: (A) the person has been convicted  
3 during the preceding five years of a crime that is punishable by  
4 imprisonment for a term exceeding one year and that has as one  
5 of its necessary elements a fraudulent act or an act of dishonesty  
6 in the accepting, custody, or payment of money or property; and  
7 (B) that a failure to immediately issue the order threatens the  
8 financial solvency of the insurer, or may otherwise cause  
9 immediate and irreparable financial injury to the insurer.

10 (3) The fact that any subject person charged with a crime  
11 involving as one of its necessary elements a fraudulent act or any  
12 act of dishonesty in the acceptance, custody, or payment of  
13 money or property is not convicted of that crime shall not  
14 preclude the commissioner from issuing an order regarding the  
15 subject person pursuant to other provisions of this code.

16 (f) (1) Within 30 days after an order is issued pursuant to  
17 subdivision (c) or (e), the person to whom the order is issued may  
18 choose to do either of the following: (A) file with the  
19 commissioner an application for a hearing on the order. The  
20 commissioner shall, upon written request of the person, extend  
21 the 30-day period by an additional 30 days provided the request  
22 is filed with the commissioner within 30 days after the order is  
23 issued. If the commissioner fails to commence the hearing within  
24 15 business days after the application is filed, or within a longer  
25 period of time to which the person consents, the order shall be  
26 deemed rescinded as if it had not been issued. Within 30 days  
27 after the hearing, the commissioner shall affirm, modify, or  
28 rescind the order; otherwise, the order shall be deemed rescinded  
29 as if it had not been issued, or (B) petition for judicial review of  
30 the order pursuant to Section 1085 of the Code of Civil  
31 Procedure, where the court shall exercise its independent  
32 judgment on the evidence.

33 (2) The right of any person to whom an order is issued  
34 pursuant to subdivision (c) or (e) to petition for judicial review of  
35 the order shall not be affected by the failure of that person to  
36 apply to the commissioner for a hearing on the order as provided  
37 by this subdivision.

38 (g) (1) Any person to whom an order is issued pursuant to  
39 subdivision (b), (c), or (e) may apply to the commissioner to  
40 modify or rescind the order. The commissioner shall not grant the

1 application unless he or she finds that it is reasonable to believe  
2 that the person will, if and when he or she becomes a subject  
3 person, comply with all of the applicable provisions of this code  
4 and of any regulation or order issued thereunder.

5 (2) The right of any person to whom an order is issued  
6 pursuant to subdivision (b), (c), or (e) to petition for judicial  
7 review of the order shall not be affected by the failure of that  
8 person to apply to the commissioner pursuant to paragraph (1).

9 (h) (1) It is unlawful for any subject person or former subject  
10 person to whom an order is issued pursuant to subdivision (b), (c)  
11 or (e) to do any of the following as long as the order is effective,  
12 except with the prior consent of the commissioner: (A) to serve  
13 or act as a subject person for or in any insurer; or (B) to directly  
14 or indirectly solicit, procure, or transfer or attempt to transfer or  
15 vote any proxy, consent or authorization with respect to any  
16 shares or other securities of any insurer having voting rights.

17 (2) If, after notice and a hearing, the commissioner finds that  
18 any person has violated paragraph (1) of this subdivision, the  
19 commissioner may order that person to pay to the commissioner  
20 a civil penalty in an amount the commissioner may specify;  
21 provided however, that the amount of the civil penalty shall not  
22 exceed one thousand dollars (\$1,000) for each violation or, in the  
23 case of a continuing violation, one thousand dollars (\$1,000) for  
24 each day for which the violation continues, which may be  
25 recovered in a civil action.

26 In determining the amount of civil penalty to be paid to the  
27 commissioner under this paragraph, the commissioner shall  
28 consider the financial resources and good faith of the person  
29 charged, the gravity of the violation, the history of previous  
30 violations by the person, and such other factors as in the opinion  
31 of the commissioner may be relevant.

32 (3) If, after notice and a hearing, the commissioner finds that  
33 any insurer has knowingly aided and abetted a subject person in  
34 a violation of paragraph (1) of this subdivision, the commissioner  
35 may order that insurer to pay to the commissioner a civil penalty  
36 in an amount the commissioner may specify; provided however,  
37 that the amount of the civil penalty shall not exceed ten thousand  
38 dollars (\$10,000) for each violation, or in the case of a continuing  
39 violation, ten thousand dollars (\$10,000) for each day for which  
40 the violation continues up to a maximum of one hundred

1 thousand dollars (\$100,000), which may be recovered in a civil  
2 action. Continuation of the subject person's salary or other  
3 employee benefits pending final disposition shall not be  
4 considered aiding and abetting a subject person.

5 In determining the amount of civil penalty to be paid to the  
6 commissioner under this paragraph, the commissioner shall  
7 consider the financial resources and good faith of the person  
8 charged, the gravity of the violation, the history of previous  
9 violations by the person, and such other factors as in the opinion  
10 of the commissioner may be relevant.

11 (i) Except as otherwise provided by this section any hearing  
12 required by this section shall be conducted in accordance with  
13 Chapter 5 (commencing with Section 11500) of Part 1 of  
14 Division 3 of Title 2 of the Government Code, subject to the  
15 following:

16 (1) At the option of the subject person, all such hearings shall  
17 be a closed session and private, and the records of the hearings  
18 shall not be made public unless the hearing results in a final order  
19 adverse to the subject person.

20 (2) Where judicial review is sought by the subject person  
21 pursuant to Section 11523 of the Government Code, the court  
22 shall exercise its independent judgment upon the evidence.

23 (3) When a subject person to whom an order has been issued  
24 pursuant to subdivision (c) or (e) applies to the commissioner for  
25 a hearing pursuant to subparagraph (A) of paragraph (1) of  
26 subdivision (f), the Office of Administrative Hearings shall  
27 schedule the hearing on a priority basis at the earliest possible  
28 time and once the hearing is commenced, it shall not be  
29 continued for more than three business days without the consent  
30 of the subject person.

31 (4) If the Office of Administrative Hearings cannot schedule  
32 the commencement of a hearing within 15 business days as  
33 provided by paragraph (1) of subdivision (f), and the subject  
34 person does not waive his or her right to a hearing commencing  
35 within 15 days, the hearings may be conducted by administrative  
36 law judges appointed by the commissioner. In the event the  
37 subject person chooses to accept a hearing before an  
38 administrative law judge appointed by the commissioner, the  
39 hearing shall be completed within 45 days of commencement  
40 unless additional time is requested by the subject person. If the

1 hearing is not completed within 45 days, the order shall be  
2 deemed rescinded as if it had not been issued.

3 (j) Nothing in this section is intended to or shall be construed  
4 to create a private cause of action against an offending subject  
5 person or an insurer or production agency that aids and abets a  
6 subject person, based on the standards established by this section  
7 or the commissioner's findings or orders pursuant to this section.

8 (k) Notwithstanding this section, or any other authority of the  
9 commissioner, the commissioner shall not have the power to  
10 remove or replace either the board of directors or the president of  
11 the State Compensation Insurance Fund.

12 SEC. 3.3. Section 738 of the Insurance Code is amended to  
13 read:

14 738. The commissioner shall have the same powers and  
15 authority to examine the State Compensation Insurance Fund as  
16 are conferred upon him by law relative to the examination of  
17 other insurers except where the fund is specifically exempted by  
18 reference.

19 SEC. 3.5. Section 739.5 of the Insurance Code is amended to  
20 read:

21 739.5. (a) "Authorized Control Level Event" means any of  
22 the following events:

23 (1) The filing of an RBC Report by the insurer that indicates  
24 that the insurer's Total Adjusted Capital is greater than or equal  
25 to its Mandatory Control Level RBC but less than its Authorized  
26 Control Level RBC.

27 (2) The notification by the commissioner to the insurer of an  
28 Adjusted RBC Report that indicates the event in paragraph (1),  
29 provided the insurer does not challenge the Adjusted RBC Report  
30 under Section 739.7.

31 (3) If the insurer challenges an Adjusted RBC Report that  
32 indicates the event in paragraph (1) under Section 739.7,  
33 notification by the commissioner to the insurer that the  
34 commissioner has, after a hearing, rejected the insurer's  
35 challenge.

36 (4) The failure of the insurer to respond, in a manner  
37 satisfactory to the commissioner, to a Corrective Order, provided  
38 the insurer has not challenged the Corrective Order under Section  
39 739.7.

1 (5) If the insurer has challenged a Corrective Order under  
2 Section 739.7 and the commissioner has, after a hearing, rejected  
3 the challenge or modified the Corrective Order, the failure of the  
4 insurer to respond, in a manner satisfactory to the commissioner,  
5 to the Corrective Order subsequent to rejection or modification  
6 by the commissioner.

7 (b) In the event of an Authorized Control Level Event with  
8 respect to an insurer, the commissioner shall do the following:

9 (1) Take such actions as are required under Section 739.4  
10 regarding an insurer with respect to which a Regulatory Action  
11 Level Event has occurred.

12 (2) If the commissioner deems it to be in the best interests of  
13 the policyholders and creditors of the insurer and of the public,  
14 take such actions as are necessary to cause the insurer to be  
15 placed under regulatory control under Article 14 (commencing  
16 with Section 1010), Article 14.3 (commencing with Section  
17 1064.1), Article 14.5 (commencing with Section 1065.1), and  
18 Article 15.5 (commencing with Section 1077). In the event the  
19 commissioner takes those actions, the Authorized Control Level  
20 Event shall be deemed sufficient grounds for the commissioner to  
21 take that action, and the commissioner shall have the rights,  
22 powers, and duties with respect to the insurer as are set forth in  
23 those provisions. In the event the commissioner takes actions  
24 under this paragraph pursuant to an Adjusted RBC Report, the  
25 insurer shall be entitled to such protections as are afforded to  
26 insurers under the provisions pertaining to summary proceedings.

27 (c) In the event of an Authorized Control Level Event with  
28 respect to the State Compensation Insurance Fund, the  
29 commissioner shall also issue a report to the Governor, the  
30 President pro Tempore of the Senate, and the Speaker of the  
31 Assembly setting forth the conditions that exist.

32 (d) *Upon a determination of the commissioner that an*  
33 *Authorized Control Level Event has occurred, the Governor, in*  
34 *consultation with the Legislature, may replace the President of*  
35 *the State Compensation Insurance Fund and appoint a recovery*  
36 *administrator. The recovery administrator shall be responsible*  
37 *for developing a plan of recovery for the State Compensation*  
38 *Insurance Fund, and for implementing the plan. The recovery*  
39 *administrator shall be a person who, through professional*  
40 *credentials or job experience, or both, has a demonstrated*

1 *understanding of insurance law, insurer finances, experience in*  
2 *the rehabilitation of insurance companies, claims administration,*  
3 *and any other factors as are needed to create and execute a plan*  
4 *of recovery. The cost of the recovery administrator shall be*  
5 *borne by the State Compensation Insurance Fund. The*  
6 *administration shall remain until the commissioner conveys to*  
7 *the Governor his or her opinion that the fund has improved its*  
8 *finances to the extent that it is no longer at the Authorized*  
9 *Control Level or above, at which point the Governor may dismiss*  
10 *the recovery administrator and appoint a new President of the*  
11 *State Compensation Insurance Fund. During the time that the*  
12 *recovery administrator is acting, the board of the State*  
13 *Compensation Insurance Fund shall act in an advisory capacity*  
14 *to the recovery administrator and the Governor.*

15 SEC. 3.6. Section 739.6 of the Insurance Code is amended to  
16 read:

17 739.6. (a) "Mandatory Control Level Event" means any of  
18 the following events:

19 (1) The filing of an RBC Report that indicates that the  
20 insurer's Total Adjusted Capital is less than its Mandatory  
21 Control Level RBC.

22 (2) Notification by the commissioner to the insurer of an  
23 Adjusted RBC Report that indicates the event in paragraph (1),  
24 provided the insurer does not challenge the Adjusted RBC Report  
25 under Section 739.7.

26 (3) If the insurer challenges an Adjusted RBC Report that  
27 indicates the event in paragraph (1) under Section 739.7,  
28 notification by the commissioner to the insurer that the  
29 commissioner has, after a hearing, rejected the insurer's  
30 challenge.

31 (b) (1) With respect to a life or health insurer, in the event of  
32 a Mandatory Control Level Event, the commissioner shall take  
33 actions as are necessary to cause the insurer to be placed under  
34 regulatory control under Article 14 (commencing with Section  
35 1010), Article 14.3 (commencing with Section 1064.1), Article  
36 14.5 (commencing with Section 1065.1), and Article 15.5  
37 (commencing with Section 1077). In that event, the Mandatory  
38 Control Level Event shall be deemed sufficient grounds for the  
39 commissioner to take action under those acts, and the  
40 commissioner shall have the rights, powers, and duties with

1 respect to the insurer as are set forth therein. In the event the  
2 commissioner takes actions pursuant to an Adjusted RBC Report,  
3 the insurer shall be entitled to protections as are afforded to  
4 insurers under those provisions. Notwithstanding any of the  
5 foregoing, the commissioner may forego action for up to 90 days  
6 after the Mandatory Control Level Event if he or she finds there  
7 is a reasonable expectation that the Mandatory Control Level  
8 Event may be eliminated within the 90-day period.

9 (2) With respect to a property and casualty insurer, the  
10 commissioner shall take those actions as are necessary to place  
11 the insurer under regulatory control, or, in the case of an insurer  
12 which is writing no business and that is running-off its existing  
13 business, may allow the insurer to continue its run-off under the  
14 supervision of the commissioner. In either event, the Mandatory  
15 Control Level Event shall be deemed sufficient grounds for the  
16 commissioner to take action and the commissioner shall have the  
17 rights, powers, and duties with respect to the insurer as are set  
18 forth in Article 14 (commencing with Section 1010). If the  
19 commissioner takes actions pursuant to an Adjusted RBC Report,  
20 the insurer shall be entitled to the protections of Article 14  
21 (commencing with Section 1010) pertaining to summary  
22 proceedings. Notwithstanding any of the foregoing, the  
23 commissioner may forego action for up to 90 days after the  
24 Mandatory Control Level Event if the commissioner finds there  
25 is a reasonable expectation that the Mandatory Control Level  
26 Event may be eliminated within the 90-day period.

27 (3) In the event of a Mandatory Control Level Event with  
28 respect to the State Compensation Insurance Fund, the  
29 commissioner shall also issue a report to the Governor, the  
30 President pro Tempore of the Senate, and the Speaker of the  
31 Assembly setting forth the conditions that exist.

32 SEC. 3.7. Section 739.12 of the Insurance Code is amended  
33 to read:

34 739.12. (a) All notices by the commissioner to an insurer that  
35 may result in regulatory action hereunder shall be effective upon  
36 dispatch if transmitted by registered or certified mail, or in the  
37 case of any other transmission shall be effective upon the  
38 insurer's receipt of such notice.



1 (b) Copies of all notices from the commissioner to the State  
2 Compensation Insurance Fund under this article shall be sent to  
3 the Governor.

4 SEC. 3.8. Section 881.2 is added to the Insurance Code, to  
5 read:

6 881.2. Notwithstanding Section 5652 of the Financial Code,  
7 use of the term “savings bank” in a name or title may be  
8 approved for use by the commissioner if the remaining words in  
9 the name or title show that the insurer is engaged in the business  
10 of insurance and is not a savings bank.

11 SEC. 3.9. Section 1010 of the Insurance Code is amended to  
12 read:

13 1010. (a) The provisions of this article shall apply to all  
14 persons, except the State Compensation Insurance Fund, subject  
15 to examination by the commissioner, or purporting to do  
16 insurance business in this State, or in the process of organization  
17 with intent to do such business therein, or from whom the  
18 commissioner's certificate of authority is required for the  
19 transaction of business, or whose certificate of authority is  
20 revoked or suspended.

21 (b) Notwithstanding subdivision (a), if any of the conditions  
22 set forth in Section 1011 exists with respect to the State  
23 Compensation Insurance Fund, and the commissioner would  
24 otherwise file a verified application with the superior court or  
25 proceed under Section 1013 against the fund, the commissioner  
26 shall instead issue a report to the Governor, the President pro  
27 Tempore of the Senate, and the Speaker of the Assembly setting  
28 forth the conditions that exist and recommending a course to  
29 remedy those conditions. The Governor, *in consultation with the*  
30 *Legislature*, shall direct a course of action to be implemented by  
31 the fund's board of directors, or if additional legislative action is  
32 necessary, recommend a course of action to the Legislature, *or*  
33 *both*.

34 SEC. 4. Section 1063.1 of the Insurance Code is amended to  
35 read:

36 1063.1. As used in this article:

37 (a) “Member insurer” means an insurer required to be a  
38 member of the association in accordance with subdivision (a) of  
39 Section 1063, except and to the extent that the insurer is

1 participating in an insolvency program adopted by the United  
2 States government.

3 (b) “Insolvent insurer” means an insurer that was a member  
4 insurer of the association, consistent with paragraph (11) of  
5 subdivision (c) of Section 10631.1, either at the time the policy  
6 was issued or when the insured event occurred, and against  
7 which an order of liquidation or receivership with a finding of  
8 insolvency has been entered by a court of competent jurisdiction,  
9 *or, in the case of the State Compensation Insurance Fund, if a*  
10 *finding of insolvency is made by a duly enacted legislative*  
11 *measure.*

12 (c) (1) “Covered claims” means the obligations of an  
13 insolvent insurer, including the obligation for unearned  
14 premiums, (i) imposed by law and within the coverage of an  
15 insurance policy of the insolvent insurer; (ii) which were unpaid  
16 by the insolvent insurer; (iii) which are presented as a claim to  
17 the liquidator in this state or to the association on or before the  
18 last date fixed for the filing of claims in the domiciliary  
19 liquidating proceedings; (iv) which were incurred prior to the  
20 date coverage under the policy terminated and prior to, on, or  
21 within 30 days after the date the liquidator was appointed; (v) for  
22 which the assets of the insolvent insurer are insufficient to  
23 discharge in full; (vi) in the case of a policy of workers’  
24 compensation insurance, to provide workers’ compensation  
25 benefits under the workers’ compensation law of this state; and  
26 (vii) in the case of other classes of insurance if the claimant or  
27 insured is a resident of this state at the time of the insured  
28 occurrence, or the property from which the claim arises is  
29 permanently located in this state.

30 (2) “Covered claims” also include the obligations assumed by  
31 an assuming insurer from a ceding insurer where the assuming  
32 insurer subsequently becomes an insolvent insurer if, at the time  
33 of the insolvency of the assuming insurer, the ceding insurer is  
34 no longer admitted to transact business in this state. Both the  
35 assuming insurer and the ceding insurer shall have been member  
36 insurers at the time the assumption was made. “Covered claims”  
37 under this paragraph shall be required to satisfy the requirements  
38 of subparagraphs (i) to (vii), inclusive, of paragraph (1), except  
39 for the requirement that the claims be against policies of the  
40 insolvent insurer. The association shall have a right to recover

1 any deposit, bond, or other assets that may have been required to  
2 be posted by the ceding company to the extent of covered claim  
3 payments and shall be subrogated to any rights the policyholders  
4 may have against the ceding insurer.

5 (3) “Covered claims” does not include obligations arising from  
6 the following:

7 (i) Life, annuity, health, or disability insurance.

8 (ii) Mortgage guaranty, financial guaranty, or other forms of  
9 insurance offering protection against investment risks.

10 (iii) Fidelity or surety insurance including fidelity or surety  
11 bonds, or any other bonding obligations.

12 (iv) Credit insurance.

13 (v) Title insurance.

14 (vi) Ocean marine insurance or ocean marine coverage under  
15 any insurance policy including claims arising from the following:  
16 the Jones Act (46 U.S.C.A. Sec. 688), the Longshore and Harbor  
17 Workers’ Compensation Act (33 U.S.C.A. Sec. 901 et seq.), or  
18 any other similar federal statutory enactment, or any endorsement  
19 or policy affording protection and indemnity coverage.

20 (vii) Any claims servicing agreement or insurance policy  
21 providing retroactive insurance of a known loss or losses, except  
22 a special excess workers’ compensation policy issued pursuant to  
23 subdivision (c) of Section 3702.8 of the Labor Code that covers  
24 all or any part of workers’ compensation liabilities of an  
25 employer that is issued, or was previously issued, a certificate of  
26 consent to self-insure pursuant to subdivision (b) of Section 3700  
27 of the Labor Code.

28 (4) “Covered claims” does not include any obligations of the  
29 insolvent insurer arising out of any reinsurance contracts, nor any  
30 obligations incurred after the expiration date of the insurance  
31 policy or after the insurance policy has been replaced by the  
32 insured or canceled at the insured’s request, or after the insurance  
33 policy has been canceled by the association as provided in this  
34 chapter, or after the insurance policy has been canceled by the  
35 liquidator, nor any obligations to any state or to the federal  
36 government.

37 (5) “Covered claims” does not include any obligations to  
38 insurers, insurance pools, or underwriting associations, nor their  
39 claims for contribution, indemnity, or subrogation, equitable or  
40 otherwise, except as otherwise provided in this chapter.

1 An insurer, insurance pool, or underwriting association may  
2 not maintain, in its own name or in the name of its insured, any  
3 claim or legal action against the insured of the insolvent insurer  
4 for contribution, indemnity or by way of subrogation, except  
5 insofar as, and to the extent only, that the claim exceeds the  
6 policy limits of the insolvent insurer's policy. In those claims or  
7 legal actions, the insured of the insolvent insurer is entitled to a  
8 credit or setoff in the amount of the policy limits of the insolvent  
9 insurer's policy, or in the amount of the limits remaining, where  
10 those limits have been diminished by the payment of other  
11 claims.

12 (6) "Covered claims," except in cases involving a claim for  
13 workers' compensation benefits or for unearned premiums, does  
14 not include any claim in an amount of one hundred dollars (\$100)  
15 or less, nor that portion of any claim that is in excess of any  
16 applicable limits provided in the insurance policy issued by the  
17 insolvent insurer.

18 (7) "Covered claims" does not include that portion of any  
19 claim, other than a claim for workers' compensation benefits,  
20 that is in excess of five hundred thousand dollars (\$500,000).

21 (8) "Covered claims" does not include any amount awarded as  
22 punitive or exemplary damages, nor any amount awarded by the  
23 Workers' Compensation Appeals Board pursuant to Section 5814  
24 or 5814.5 because payment of compensation was unreasonably  
25 delayed or refused by the insolvent insurer.

26 (9) "Covered claims" does not include (i) any claim to the  
27 extent it is covered by any other insurance of a class covered by  
28 this article available to the claimant or insured nor (ii) any claim  
29 by any person other than the original claimant under the  
30 insurance policy in his or her own name, his or her assignee as  
31 the person entitled thereto under a premium finance agreement as  
32 defined in Section 673 and entered into prior to insolvency, his or  
33 her executor, administrator, guardian or other personal  
34 representative or trustee in bankruptcy and does not include any  
35 claim asserted by an assignee or one claiming by right of  
36 subrogation, except as otherwise provided in this chapter.

37 (10) "Covered claims" does not include any obligations arising  
38 out of the issuance of an insurance policy written by the separate  
39 division of the State Compensation Insurance Fund pursuant to  
40 Sections 11802 and 11803.

1 (11) "Covered claims" does not include any obligations of the  
2 insolvent insurer arising from any policy or contract of insurance  
3 issued or renewed prior to the insolvent insurer's admission to  
4 transact insurance in the State of California.

5 (12) "Covered claims" does not include surplus deposits of  
6 subscribers as defined in Section 1374.1.

7 (13) "Covered Claims" shall also include obligations arising  
8 under an insurance policy written to indemnify a permissibly  
9 self-insured employer pursuant to subdivision (b) or (c) of  
10 Section 3700 of the Labor Code for its liability to pay workers'  
11 compensation benefits in excess of a specific or aggregate  
12 retention, provided, however, that for purposes of this article,  
13 those claims shall not be considered workers' compensation  
14 claims and therefore are subject to the per claim limit in  
15 paragraph (7) and any payments and expenses related thereto  
16 shall be allocated to category (c) for claims other than workers'  
17 compensation, homeowners, and automobile, as provided in  
18 Section 1063.5.

19 These provisions shall apply to obligations arising under any  
20 policy as described herein issued to a permissibly self-insured  
21 employer or group of self-insured employers pursuant to Section  
22 3700 of the Labor Code and notwithstanding any other provision  
23 of the Insurance Code, those obligations shall be governed by  
24 this provision in the event that the Self-Insurers' Security Fund is  
25 ordered to assume the liabilities of a permissibly self-insured  
26 employer or group of self-insured employers pursuant to Section  
27 3701.5 of the Labor Code. The provisions of this paragraph apply  
28 only to insurance policies written to indemnify a permissibly  
29 self-insured employer or group of self-insured employers under  
30 subdivision (b) or (c) of Section 3700, for its liability to pay  
31 workers' compensation benefits in excess of a specific or  
32 aggregate retention, and this paragraph does not apply to special  
33 excess workers' compensation insurance policies unless issued  
34 pursuant to authority granted in subdivision (c) of Section 3702.8  
35 of the Labor Code, and as provided for in clause (vii) of  
36 paragraph (3) of subdivision (c). In addition, this paragraph does  
37 not apply to any claims servicing agreement or insurance policy  
38 providing retroactive insurance of a known loss or losses as are  
39 excluded in clause (vii) of paragraph (3) of subdivision (c).

1 Each permissibility self-insured employer or group of  
2 self-insured employers, or the Self-Insurers' Security Fund, shall,  
3 to the extent required by the Labor Code, be responsible for  
4 paying, adjusting, and defending each claim arising under  
5 policies of insurance covered under this section, unless the  
6 benefits paid on a claim exceed the specific or aggregate  
7 retention, in which case.

8 (A) If the benefits paid on the claim exceed the specific or  
9 aggregate retention, and the policy requires the insurer to defend  
10 and adjust the claim, the California Insurance Guarantee  
11 Association (CIGA) shall be solely responsible for adjusting and  
12 defending the claim, and shall make all payments due under the  
13 claim, subject to the limitations and exclusions of this article with  
14 regards to covered claims. As to each claim subject to this  
15 paragraph, notwithstanding any other provisions of the Insurance  
16 Code or the Labor Code, and regardless of whether the amount  
17 paid by CIGA is adequate to discharge a claim obligation, neither  
18 the self-insured employer, group of employers, nor the  
19 Self-Insurers' Security Fund, shall have any obligation to pay  
20 benefits over and above the specific or aggregate retention,  
21 except as provided in subdivision (c).

22 (B) If the benefits paid on the claim exceed the specific or  
23 aggregate retention, and the policy does not require the insurer to  
24 defend and adjust the claim, the permissibility self-insured  
25 employer or group of self-insured employers, or the  
26 Self-Insurers' Security Fund, shall not have any further payment  
27 obligations with respect to the claim, but shall continue  
28 defending and adjusting the claim, and shall have the right, but  
29 not the obligation, in any proceeding to assert all applicable  
30 statutory limitations and exclusions as contained in this article  
31 with regard to the covered claim. CIGA shall have the right, but  
32 not the obligation, to intervene in any proceeding where the  
33 self-insured employer, group of self-insured employers, or the  
34 Self-Insurers' Security Fund is defending any such claim and  
35 shall be permitted to raise the appropriate statutory limitations  
36 and exclusions as contained in this article with respect to covered  
37 claims. Regardless of whether the self-insured employer or group  
38 of employers, or the Self-Insurers' Security Fund, asserts the  
39 applicable statutory limitations and exclusions, or whether CIGA  
40 intervenes in any such proceeding, CIGA shall be solely

1 responsible for paying all benefits due on the claim, subject to  
2 the exclusions and limitations of this article with respect to  
3 covered claims. As to each claim subject to this paragraph,  
4 notwithstanding any other provision of the Insurance Code or the  
5 Labor Code and regardless of whether the amount paid by CIGA  
6 is adequate to discharge a claim obligation, neither the  
7 self-insured employer, group of employers, nor the Self-Insurers'  
8 Security Fund, shall have any obligation to pay benefits over and  
9 above the specific or aggregate retention, except as provided in  
10 this subdivision.

11 ~~(e)~~

12 (d) In the event that the benefits paid on the covered claim  
13 exceed the per claim limit in paragraph (7) of subdivision (c), the  
14 responsibility for paying, adjusting, and defending the claim shall  
15 be returned to the permissibly self-insured employer or group of  
16 employers, or the Self-Insurers' Security Fund.

17 These provisions shall apply to all pending and future  
18 insolvencies. For purposes of this paragraph, a pending  
19 insolvency is one involving a company that is currently receiving  
20 benefits from the guaranty association.

21 ~~(d)~~

22 (e) "Admitted to transact insurance in this state" means an  
23 insurer possessing a valid certificate of authority issued by the  
24 department.

25 ~~(e)~~

26 (f) "Affiliate" means a person who directly or indirectly,  
27 through one or more intermediaries, controls, is controlled by, or  
28 is under common control with an insolvent insurer on December  
29 31 of the year next preceding the date the insurer becomes an  
30 insolvent insurer.

31 ~~(f)~~

32 (g) "Control" means the possession, direct or indirect, of the  
33 power to direct or cause the direction of the management and  
34 policies of a person, whether through the ownership of voting  
35 securities, by contract other than a commercial contract for goods  
36 or nonmanagement services, or otherwise, unless the power is the  
37 result of an official position with or corporate office held by the  
38 person. Control is presumed to exist if any person, directly or  
39 indirectly, owns, controls, holds with the power to vote, or holds  
40 proxies representing, 10 percent or more of the voting securities

1 of any other person. This presumption may be rebutted by  
2 showing that control does not in fact exist.

3 ~~(g)~~

4 (h) “Claimant” means any insured making a first party claim  
5 or any person instituting a liability claim; provided that no person  
6 who is an affiliate of the insolvent insurer may be a claimant.

7 ~~(h)~~

8 (i) “Ocean marine insurance” includes marine insurance as  
9 defined in Section 103, except for inland marine insurance, as  
10 well as any other form of insurance, regardless of the name,  
11 label, or marketing designation of the insurance policy, that  
12 insures against maritime perils or risks and other related perils or  
13 risks, which are usually insured against by traditional marine  
14 insurance such as hull and machinery, marine builders’ risks, and  
15 marine protection and indemnity. Those perils and risks insured  
16 against include, without limitation, loss, damage, or expense or  
17 legal liability of the insured arising out of or incident to  
18 ownership, operation, chartering, maintenance, use, repair, or  
19 construction of any vessel, craft or instrumentality in use in  
20 ocean or inland waterways, including liability of the insured for  
21 personal injury, illness, or death for loss or damage to the  
22 property of the insured or another person.

23 ~~(i)~~

24 (j) “Unearned premium” means that portion of a premium that  
25 had not been earned because of the cancellation of the insolvent  
26 insurer’s policy and is that premium remaining for the unexpired  
27 term of the insolvent insurer’s policy. “Unearned premium” does  
28 not include any amount sought as return of a premium under any  
29 policy providing retroactive insurance of a known loss or return  
30 of a premium under any retrospectively rated policy or a policy  
31 subject to a contingent surcharge or any policy in which the final  
32 determination of the premium cost is computed after expiration  
33 of the policy and is calculated on the basis of actual loss  
34 experience during the policy period.

35 SEC. 4.1. Section 1063.5 of the Insurance Code is amended  
36 to read:

37 1063.5. Each time an insurer becomes insolvent then, to the  
38 extent necessary to secure funds for the association for payment  
39 of covered claims of that insolvent insurer and also for payment  
40 of reasonable costs of adjusting the claims, the association shall



1 collect premium payments from its member insurers sufficient to  
2 discharge its obligations. The association shall allocate its claim  
3 payments and costs, incurred or estimated to be incurred, to one  
4 or more of the following categories: (a) workers' compensation  
5 claims; (b) homeowners' claims, and automobile claims, which  
6 shall include: automobile material damage, automobile liability  
7 (both personal injury and death and property damage), medical  
8 payments and uninsured motorist claims; and (c) claims other  
9 than workers' compensation, homeowners', and automobile, as  
10 above defined. Separate premium payments shall be required for  
11 each category. The premium payments for each category shall be  
12 used to pay the claims and costs allocated to that category. The  
13 rate of premium charged shall be a uniform percentage of net  
14 direct written premium in the preceding calendar year applicable  
15 to that category. The rate of premium charges to each member in  
16 the appropriate categories shall initially be based on the written  
17 premium of each insurer as shown in the latest year's annual  
18 financial statement on file with the commissioner. The initial  
19 premium shall be adjusted by applying the same rate of premium  
20 charge as initially used to each insurer's written premium as  
21 shown on the annual statement for the second year following the  
22 year in which the initial premium charge is made. The difference  
23 between the initial premium charge and the adjusted premium  
24 charge shall be charged or credited to each member insurer by  
25 the association as soon as practical after the filing of the annual  
26 statements of the member insurers with the commissioner for the  
27 year on which the adjusted premium is based. Any credit due in a  
28 specific category to a member insurer as a result of the adjusted  
29 premium calculation may be refunded to the member insurer at  
30 the discretion of the association if the member insurer has agreed  
31 with the commissioner to no longer write insurance in that  
32 category but has not withdrawn from the state and surrendered its  
33 certificate of authority. However, in the case of an insurer that  
34 was a member insurer when the initial premium charge was made  
35 and that paid the initial assessment but is no longer a member  
36 insurer at the time of the adjusted premium charge by reason of  
37 its insolvency or its withdrawal from the state and surrender of its  
38 certificate of authority to transact insurance in this state, any  
39 credit accruing to that insurer shall be refunded to it by the  
40 association. "Net direct written premiums" shall mean the

1 amount of gross premiums, less return premiums, received in that  
2 calendar year upon business done in this state, other than  
3 premiums received for reinsurance. In cases of a dispute as to the  
4 amount of the net direct written premium between the association  
5 and one of its members the written decision of the commissioner  
6 shall be final. The premium charged to any member insurer for  
7 any of the three categories or a category established by the  
8 association shall not be more than 2 percent of the net direct  
9 premium written in that category in this state by that member per  
10 year, starting on January 1, 2003, until December 31, 2007, and  
11 thereafter shall be 1 percent per year. The association may  
12 exempt or defer, in whole or in part, the premium charge of any  
13 member insurer, if the premium charge would cause the member  
14 insurer's financial statement to reflect an amount of capital or  
15 surplus less than the minimum amounts required for a certificate  
16 of authority by any jurisdiction in which the member insurer is  
17 authorized to transact insurance. However, during the period of  
18 deferment, no dividends shall be paid to shareholders or  
19 policyholders by the company whose premium charge was  
20 deferred. Deferred premium charges shall be paid when the  
21 payment will not reduce capital or surplus below required  
22 minimums. These payments shall be credited against future  
23 premium charges to those companies receiving larger premium  
24 charges by virtue of the deferment. After all covered claims of  
25 the insolvent insurer and expenses of administration have been  
26 paid, any unused premiums and any reimbursements or claims  
27 dividends from the liquidator remaining in any category shall be  
28 retained by the association and applied to reduce future premium  
29 charges in the appropriate category. However, an insurer which  
30 ceases to be a member of the association, other than an insurer  
31 that has become insolvent or has withdrawn from the state and  
32 has surrendered its certificate of authority following an initial  
33 assessment that is entitled to a refund based upon an adjusted  
34 assessment as provided above in this section, shall have no right  
35 to a refund of any premium previously remitted to the  
36 association. The commissioner may suspend or revoke the  
37 certificate of authority to transact business in this state of a  
38 member insurer which fails to pay a premium when due and after  
39 demand has been made.

1 Interest at a rate equal to the current federal reserve discount  
2 rate plus 2 ½ percent per annum shall be added to the premium of  
3 any member insurer which fails to submit the premium requested  
4 by the association within 30 days after the mailing request.  
5 However, in no event shall the interest rate exceed the legal  
6 maximum.

7 SEC. 4.2. Section 1064.12 of the Insurance Code is amended  
8 to read:

9 1064.12. (a) This article may be referred to as the “Uniform  
10 Insurers Rehabilitation Act.”

11 (b) The Uniform Insurers Rehabilitation Act shall be so  
12 interpreted and construed as to effectuate its general purpose to  
13 make uniform the law of those states that enact it. To the extent  
14 that its provisions, when applicable, conflict with Article 14  
15 (commencing with Section 1010), the provisions of this article  
16 shall control. The provisions of Article 14 (commencing with  
17 Section 1010) not in conflict with this article shall be unaffected  
18 by it.

19 (c) This article does not apply in regard to insurers domiciled  
20 in any state that is not a reciprocal state, and to any insurer  
21 domiciled in a reciprocal state before that state appoints a  
22 domiciliary receiver for the insurer. All those insurers shall be  
23 governed by Article 14 (commencing with Section 1010). If a  
24 domiciliary receiver is appointed in a reciprocal state while a  
25 receivership is proceeding under Article 14 (commencing with  
26 Section 1010), the receiver under that article shall thereafter act  
27 as ancillary receiver under Section 1064.3.

28 (d) This article shall not apply to the State Compensation  
29 Insurance Fund.

30 SEC. 4.4. Section 1064.13 is added to the Insurance Code, to  
31 read:

32 1064.13. (a) Upon receipt of a notice of liquidation the  
33 commissioner shall cease imposing, billing or collecting fees and  
34 assessments against the subject company pursuant to this code.

35 (b) Upon receipt of a notice of conservation or administrative  
36 supervision the commissioner may cease to impose, bill, or  
37 collect fees against the subject company pursuant to this code.  
38 Following the date the order has been lifted the commissioner  
39 may once again impose, bill, or collect fees against the subject  
40 company.

1 (c) Upon receipt of a notice of liquidation all outstanding  
2 invoices, billings or assessments pursuant to this code prior to the  
3 date of the notice shall be cancelled.

4 (d) Upon issuance of a notice of conservation or  
5 administrative supervision, outstanding amounts due from the  
6 subject company imposed prior to the date of the conservation or  
7 administrative supervision, may be held in abeyance and remain  
8 unpaid until the conservation or administrative supervision is  
9 terminated. Late filing fees accrued pursuant to Section 12995 of  
10 this code shall not be imposed.

11 (e) If it is determined that an insurer is in any of the conditions  
12 enumerated in Section 1011, and it is determined that all  
13 available funds are needed to pay policyholders, the  
14 commissioner may suspend the imposition of fees or assessments  
15 until the condition of the insurer has improved to the extent  
16 where payment of fees or assessments will not harm  
17 policyholders.

18 SEC. 4.6. Section 1077.1 of the Insurance Code is amended  
19 to read:

20 1077.1. The provisions of the article shall apply to all of the  
21 following:

22 (a) All domestic life or disability insurers, except the State  
23 Compensation Insurance Fund.

24 (b) Any other life or disability insurer doing business in this  
25 state whose state of domicile has asked the commissioner to  
26 apply the provisions of this article as regards that insurer.

27 (c) Notwithstanding subdivision (a), the State Compensation  
28 Insurance Fund may give its consent to administrative  
29 supervision pursuant to paragraph (5) of subdivision (a) of  
30 Section 1077.2.

31 SEC. 5. Section 1215.13 of the Insurance Code is amended to  
32 read:

33 1215.13. (a) For the purposes of this article only, every  
34 foreign insurer, except an insurer described in Article 2  
35 (commencing with Section 12350) of Chapter 1 of Part 6 of  
36 Division 2, that is authorized to do business in this state and that,  
37 during its three preceding fiscal years taken together, or during  
38 any lesser period of time if it has been licensed to transact its  
39 business in California only for such lesser period of time, has  
40 written an average of more direct premiums in the State of

1 California than it has written in its state of domicile during the  
2 same period, and those direct premiums written constitute 33  
3 percent or more of its total direct premiums written everywhere  
4 in the United States for that three-year or lesser period, as  
5 reported in its three most recent annual statements, shall be  
6 deemed a “commercially domiciled insurer” within the State of  
7 California.

8 (b) The commissioner may exempt from the provisions of this  
9 article any commercially domiciled insurer made subject to this  
10 article by subdivision (a) if he or she determines that it has a  
11 sufficiently large amount of assets and the evidences of title  
12 thereto physically located in California, or that the ratio of those  
13 assets to its California policyholder liability is sufficiently large,  
14 as to justify the conclusion that there is no reasonable danger that  
15 the operations or conduct of the business of the insurer could  
16 present a danger of loss to California policyholders. The  
17 commissioner may also exempt from the provisions of this article  
18 any commercially domiciled insurer made subject to this article  
19 by subdivision (a) under the circumstances that he or she deems  
20 appropriate.

21 (c) This section does not exempt any foreign insurer that is  
22 authorized to do business in this state, including a commercially  
23 domiciled insurer, from the provisions of any other sections of  
24 this article that may be applicable to the insurer.

25 SEC. 5.5. Section 1656 of the Insurance Code is amended to  
26 read:

27 1656. Every applicant for an organizational license shall  
28 provide the names of all persons who may exercise the power  
29 and perform the duties under the license. Applicants for a  
30 nonresident organizational license must name at least one person  
31 from their home state who may exercise the power and perform  
32 the duties under their license. Additional persons endorsed to that  
33 license may be residents of another state, but may not be  
34 residents of California.

35 SEC. 6. Section 1676 of the Insurance Code is amended to  
36 read:

37 1676. (a) Except as set forth in Sections 1675 and 1679, the  
38 commissioner shall not issue a permanent license pursuant to this  
39 chapter to an applicant therefor unless the applicant has within  
40 the 12-month period next preceding the date of issue of the

1 license taken and passed the qualifying examination for that  
2 license. This section shall not apply to a person licensed as a fire  
3 and casualty broker-agent who applies for a license as a personal  
4 lines broker-agent.

5 (b) An applicant for a personal lines license pursuant to  
6 Section 1625.5 who has been continually employed by an  
7 admitted insurer or licensed fire and casualty broker-agent in a  
8 full-time position for at least three years immediately prior to  
9 January 1, 2001, shall be exempted, at the discretion of the  
10 commissioner, from having to take and pass an examination to  
11 obtain a personal lines license. An exempted applicant shall be  
12 required to comply with all other provisions of this article  
13 pertaining to the issuance and maintenance of a personal lines  
14 license. The curriculum board shall establish criteria, which shall  
15 be submitted to the commissioner for final approval, to allow  
16 experience or prior training to be substituted for prelicensing  
17 educational requirements for applicants applying for an  
18 exemption pursuant to this subdivision. A licensee exempted  
19 from examination pursuant to this subdivision shall remain  
20 subject to all continuing education requirements applicable to  
21 maintaining a personal lines license.

22 (c) An application for a personal lines license shall be  
23 submitted to the commissioner as provided for in Article 4  
24 (commencing with Section 1652).

25 (d) The commissioner may deny any application for a personal  
26 lines license as provided in Article 6 (commencing with Section  
27 1666).

28 (e) In addition to the application, any applicant for a personal  
29 lines license seeking exemption from the examination provisions  
30 of this chapter shall also submit, on a form prescribed by the  
31 commissioner, or if a form is not prescribed, in letter or resumé  
32 form, information that will permit the commissioner to determine  
33 whether the previous experience of the applicant for a personal  
34 lines license warrants an exemption from having to take an  
35 examination to obtain a license.

36 (f) The commissioner shall require an applicant for a personal  
37 lines license to take an examination to obtain a license if the  
38 commissioner determines that the applicant has failed to  
39 demonstrate that previous experience warrants an exemption

1 from examination. In the absence of making that determination,  
2 the request for exemption from examination shall be granted.

3 (g) This section shall not be applicable to any applicant for a  
4 nonresident license pursuant to subdivision (b) of Section 1639.

5 (h) This section shall not be applicable to any applicant for a  
6 personal lines license who has been refused a license or has had a  
7 license suspended or revoked by the commissioner.

8 (i) An applicant for a personal lines license pursuant to Section  
9 1625.5 who seeks an exemption from an examination to obtain a  
10 license shall submit a request to that effect to the commissioner.  
11 An applicant who does not submit an application on or before  
12 December 31, 2001, shall be required to take an examination to  
13 obtain a license.

14 (j) An applicant for a life agent license pursuant to Section  
15 1626 who is limited by the terms of a written agreement with an  
16 insurer which has filed on that life agent's behalf a notice of  
17 appointment with the commissioner to transact only specific life  
18 insurance policies or annuities having an initial face amount of  
19 fifteen thousand dollars (\$15,000) or less that are designated by  
20 the purchaser for the payment of funeral and burial expenses,  
21 shall not be required to take the full life agent examination to  
22 obtain a license. The applicant shall be required to take an  
23 examination developed to test their knowledge of topics relevant  
24 to the type of policies that they are restricted to sell.

25 SEC. 6.5. Section 1679 of the Insurance Code is amended to  
26 read:

27 1679. (a) A nonresident applicant for a license shall be  
28 subject to the same qualifying examination as is required of a  
29 resident applicant. The examination may be administered to an  
30 eligible nonresident applicant through the insurance authority of  
31 the state, territory of the United States, or province of Canada of  
32 his or her residence; provided, however, that the commissioner  
33 may, in his or her discretion, enter into a reciprocal arrangement  
34 with the officer having supervision of the insurance business in  
35 any other state, territory of the United States, or province of  
36 Canada whose qualification standards for the applicant to be  
37 examined are substantially the same as or in excess of those of  
38 this state, to accept, in lieu of the examination of an applicant  
39 residing therein, a certificate of the officer to the effect that the  
40 applicant is licensed in that state, territory of the United States, or

1 province of Canada in a capacity similar to that for which a  
2 license is sought in this state and has complied with its  
3 qualification standards in respect to the following:

4 (1) Experience or training,

5 (2) Reasonable familiarity with the broad principles of  
6 insurance licensing and regulatory laws and with the provisions,  
7 terms and conditions of the insurance which the applicant  
8 proposes to transact, and

9 (3) A fair and general understanding of the obligations and  
10 duties of a holder of the license sought.

11 (b) The provisions of this section shall not apply to a  
12 nonresident applicant who maintains a license in a jurisdiction  
13 that grants reciprocity to California residents in accordance with  
14 Section 1638.5.

15 (c) A nonresident applicant for an organizational license must  
16 name at least one person from their home state who may exercise  
17 the power and perform the duties under their license. Additional  
18 persons endorsed to that license may be residents of another  
19 state, but may not be residents of California.

20 SEC. 7. Section 1707 of the Insurance Code is amended to  
21 read:

22 1707. Except as otherwise provided in Section 1704.5, each  
23 notice of appointment or notice of termination of appointment  
24 filed pursuant to this article shall be filed on forms prescribed by  
25 the commissioner within 15 days of appointment or termination.

26 SEC. 8. Section 1733 of the Insurance Code is amended to  
27 read:

28 1733. All funds received by any person acting as an insurance  
29 agent, broker, or solicitor, life agent, life analyst, surplus line  
30 broker, special lines surplus line broker, motor club agent, bail  
31 agent, permittee, administrator as defined in Section 1759, or  
32 solicitor, as premium or return premium on or under any policy  
33 of insurance or undertaking of bail, are received and held by that  
34 person in his or her fiduciary capacity. Any such person who  
35 diverts or appropriates those fiduciary funds to his or her own use  
36 is guilty of theft and punishable for theft as provided by law. Any  
37 premium that a premium financier agrees to advance pursuant to  
38 the terms of a premium finance agreement shall constitute  
39 fiduciary funds as defined in this section only if actually received



1 by a person licensed in one or more of the capacities herein  
2 specified.

3 SEC. 9. Section 1775.4 of the Insurance Code is amended to  
4 read:

5 1775.4. (a) The amount of the payment shall be 3 percent of  
6 the gross premiums less return premiums upon business done by  
7 the surplus line broker under the authority of his or her license  
8 during the calendar month ending two calendar months  
9 immediately preceding the due date of the payment, as specified  
10 in Section 1775.3, excluding gross premiums and return  
11 premiums paid by him or her upon business governed by the  
12 provisions of Section 1760.5. If during any calendar month those  
13 return premiums upon business done by a surplus line broker  
14 exceed the gross premiums upon the business done by him or her  
15 in that calendar month, then no payment shall be payable by him  
16 or her in respect to that calendar month, and he or she may carry  
17 forward that excess to the next succeeding calendar month or  
18 months and apply it in reduction of the taxable premiums on  
19 business done by him or her in that succeeding calendar month or  
20 months. Even though no payment shall be payable by the broker,  
21 he or she shall file a return showing that his or her return  
22 premiums exceeded his or her gross premiums.

23 (b) In determining the applicability of subdivision (a) of  
24 Section 1775.1 to a surplus line broker who has acquired the  
25 business of another surplus line broker, the amount of tax  
26 liability of the acquired broker for the immediately preceding  
27 calendar year shall be added to the amount of the tax liability of  
28 the acquiring broker for the immediately preceding calendar year.

29 (c) All amounts paid, other than penalties and interest, shall be  
30 allowed as a credit on the annual tax imposed by Section 1775.5.

31 (d) If the total amount of monthly installment payments for  
32 any calendar year exceeds the amount of annual tax for that year,  
33 the excess shall be treated as an overpayment of annual tax and  
34 be allowed as a credit or refund.

35 (e) A penalty of 10 percent of the amount of the monthly  
36 payment due shall be levied upon and paid by any surplus line  
37 broker who fails to make the necessary payment within the time  
38 required, plus interest at the rate of 1 percent per calendar month  
39 or fraction thereof from the due date of the payment until the date  
40 payment is received by the commissioner, but not for any period

1 after the due date of the annual tax. The penalty and interest shall  
2 be applied as prescribed in Section 12636.5 of the Revenue and  
3 Taxation Code. The commissioner may remit the penalty in a  
4 case where he or she finds, as a result of examination or  
5 otherwise, that the failure of, or delay in, payment arose out of  
6 excusable mistake or excusable inadvertence.

7 (f) For any part of a payment required that was not made  
8 within the time required by law, when the nonpayment or late  
9 payment was due to fraud on the part of the taxpayer, a penalty  
10 of 25 percent of the amount unpaid shall be added thereto, in  
11 addition to all other penalties otherwise imposed.

12 (g) The commissioner, upon a showing of good cause, may  
13 extend for not to exceed 10 days the time for making a monthly  
14 payment. The extension may be granted at any time, provided  
15 that a request therefor is filed with the commissioner within or  
16 prior to the period for which the extension may be granted. Any  
17 surplus line broker to whom an extension is granted shall, in  
18 addition to the monthly payment, pay interest at the rate of 1  
19 percent per month, or fraction thereof, from the due date until the  
20 annual tax due date.

21 SEC. 10. Section 1808 of the Insurance Code is amended to  
22 read:

23 1808. (a) Annual notices of intention to keep licenses in  
24 force or applications for renewal of licenses, as the case may be,  
25 may be filed on or before June 30th of each year upon payment  
26 of the fees for filing specified in Section 1811.

27 (b) Upon failure to file such notice or application as provided  
28 in subdivision (a), the license shall expire on July 1st, but the  
29 holder may file an application for a new license. Until June 30th  
30 next succeeding the fee shall be twice that specified in Section  
31 1811 for such filing.

32 (c) No notice or application shall be deemed filed within the  
33 meaning of this section unless the document itself has been  
34 actually delivered to, and the proper fee for its filing has been  
35 paid at, the office of the commissioner during office hours, or  
36 unless both such document and fee have been filed and remitted  
37 pursuant to Sections 11002 and 11003 of the Government Code.

38 SEC. 11. Section 11521.6 of the Insurance Code is amended  
39 to read:

1 11521.6. Nothing contained in Section 11521, 11521.1,  
2 11521.2, 11521.4, 11523.6, or paragraph (6) of subdivision (a) of  
3 Section 11523 shall apply to any grants and annuities certificate  
4 holder that also holds a certificate of authority pursuant to Article  
5 3 (commencing with Section 699) of Chapter 1 of Part 2 of  
6 Division 1. A grants and annuities certificate holder subject to  
7 this section shall display clearly and conspicuously, and in the  
8 type specified, the disclosure required by paragraph (7) of  
9 subdivision (a) of Section 11523 in all agreements issued under  
10 this chapter.

11 SEC. 12. Section 11549 is added to the Insurance Code, to  
12 read:

13 11549. (a) Pursuant to this section, a mutual holding  
14 company may merge into a foreign mutual holding company that  
15 is domiciled in a state to which the converted insurer has  
16 transferred its domicile or will transfer its domicile concurrently  
17 with the merger. The merger shall be effected pursuant to an  
18 agreement of merger between the mutual holding company and  
19 the foreign mutual holding company in accordance with the  
20 General Corporation Law, to the extent not inconsistent with this  
21 section. The merger shall take effect upon filing the agreement of  
22 merger with the California Secretary of State after compliance  
23 with the following:

24 (1) Approval of the agreement of merger by a resolution of the  
25 majority of the board of directors of the mutual holding company  
26 and signing of the agreement of merger by the parties thereto.

27 (2) Approval of an amendment to the converted insurer's plan  
28 of conversion in accordance with Section 11547 by a resolution  
29 of the majority of the board of directors of the converted insurer  
30 in order to reflect appropriately the merger and transfer of  
31 domicile.

32 (3) Submission of the agreement of merger and the  
33 amendment to the commissioner for consent in writing.

34 (4) Approval of the agreement of merger by a majority of the  
35 members of the mutual holding company who vote at a meeting  
36 called for that purpose.

37 (5) Approval of the amendment by a majority of the members  
38 of the mutual holding company who were members of the  
39 converted insurer and were entitled to vote on the original plan of

1 conversion approved pursuant to subdivision (c) of Section  
2 11536 and who vote at a meeting called for the purpose.

3 (6) Filing of the agreement of merger in the office of the  
4 commissioner after having been consented to and approved as  
5 contemplated by paragraphs (2), (3), (4), and (5).

6 (b) The submission to the commissioner prescribed in  
7 paragraph (3) of subdivision (a) shall be accompanied by a filing  
8 fee of eight thousand one hundred dollars (\$8,100), evidence that  
9 the foreign mutual holding company that will survive the merger  
10 is qualified as a foreign corporation under the General  
11 Corporation Law, and any other relevant information that the  
12 commissioner may require.

13 (c) The meetings of members prescribed in paragraphs (4) and  
14 (5) of subdivision (a) and shall be called by the board of  
15 directors, the chairperson of the board, or the president of the  
16 mutual holding company, and may be combined at a single  
17 meeting with separate voting by those eligible to vote on the  
18 matters referred to in paragraphs (4) and (5) of subdivision (a).  
19 Notice of the meeting shall be given by mail to members entitled  
20 to vote at the meeting at least 30 days prior to the date set for the  
21 meeting. Voting shall be by ballot, in person, or by proxy. A  
22 quorum for each such matter consists of 5 percent of the  
23 members of the mutual holding company entitled to vote at the  
24 meeting on the matter.

25 (d) The commissioner shall consent to any proposed merger  
26 and amendment if he or she determines that the merger will be  
27 fair and equitable to the mutual holding company and its  
28 members.

29 SEC. 13. Section 11629.85 of the Insurance Code is amended  
30 to read:

31 11629.85. (a) On or before March 1 of each year, the  
32 commissioner shall prepare and propose a plan to the Senate  
33 Committee on Banking, Finance, and Insurance and the  
34 Assembly Committee on Insurance setting forth the methods the  
35 commissioner intends to implement to inform households eligible  
36 for the program about the availability of low-cost automobile  
37 insurance. To be eligible for funding through the budget process,  
38 the plan shall be reviewed by the Senate Committee on Banking,  
39 Finance, and Insurance and the Assembly Committee on  
40 Insurance. The information required under subdivision (c) shall

1 also be provided to the Senate Committee on Transportation and  
2 Housing and the Assembly Committee on Transportation.

3 (b) The plan shall include, at a minimum, a brief description of  
4 methods proposed to be used, anticipated costs, sources of  
5 revenue, goals, targets, objectives, and a justification of the  
6 proposed methods. The plan shall also explain how the  
7 department proposes to work in cooperation with the California  
8 Automobile Assigned Risk Plan, the social service departments  
9 in eligible counties, the Department of Motor Vehicles, and  
10 community-based organizations in order to inform eligible  
11 households of the existence of the program.

12 (c) The plan shall also include all of the following:

13 (1) The commissioner's determination regarding whether the  
14 program has been successful, based on the criteria specified in  
15 subdivision (d), and an explanation regarding that success or lack  
16 thereof.

17 (2) In cooperation with the California Automobile Assigned  
18 Risk Plan, structural characteristics of the program that may  
19 require statutory revision in order for the program to succeed or  
20 to improve upon existing success.

21 (3) Impediments to success of the program that can reasonably  
22 be overcome by revision to the strategies adopted by the  
23 department.

24 (4) A detailed explanation of the department's use for the  
25 program of funds assessed pursuant to Section 1872.81.

26 (5) For the previous calendar year, a list of the total low-cost  
27 auto premium for each county in which the program was  
28 available.

29 (6) The most recent annual report to the Legislature on the  
30 status of the low-cost automobile insurance program from the  
31 California Automobile Assigned Risk Plan.

32 (d) The program is successful if the following occur:

33 (1) The program generated sufficient premiums to cover losses  
34 incurred under policies issued under the program, and expenses  
35 incurred by the program, as calculated pursuant to subdivision (c)  
36 of Section 11629.72.

37 (2) The program served the public purpose of offering access  
38 to automobile insurance to otherwise underserved communities  
39 in the program areas.

1 (3) The program offered access to automobile insurance to  
2 previously uninsured motorists seeking affordable coverage in  
3 the program areas.

4 (e) Any written or oral advertisements, including, but not  
5 limited to, paid or unpaid commercial or noncommercial  
6 advertising, by the department with reference to the low-cost  
7 automobile insurance program shall reference the department and  
8 shall not reference the commissioner by name or office, or  
9 include the commissioner's voice, image, or likeness. The  
10 department shall not participate with any nongovernmental entity  
11 that produces or intends to produce advertisements or educational  
12 material that include the name of the commissioner or his or her  
13 voice, image or likeness, and that are intended to make eligible  
14 households aware of the existence of low-cost automobile  
15 insurance.

16 SEC. 13.1. Section 11778 of the Insurance Code is amended  
17 to read:

18 11778. The fund may transact workers' compensation  
19 insurance required or authorized by law of this state to the same  
20 extent as any other insurer. The fund shall be subject to the  
21 powers and authority of the commissioner to the same extent as  
22 any other insurer transacting workers' compensation insurance,  
23 except where specifically exempted by reference. For purposes of  
24 Section 700, the fund shall be deemed admitted to transact this  
25 class of insurance.

26 ~~SEC. 13.2. Section 11797 of the Insurance Code is amended~~  
27 ~~to read:~~

28 ~~11797. The board of directors shall cause all moneys in the~~  
29 ~~State Compensation Insurance Fund which are in excess of~~  
30 ~~current requirements to be invested and reinvested, from time to~~  
31 ~~time, in the same manner as provided for private insurance~~  
32 ~~carriers pursuant to Article 3 (commencing with Section 1170)~~  
33 ~~and Article 4 (commencing with Section 1190) of Chapter 2 of~~  
34 ~~Part 2 of Division 1, but excluding Sections 1191, 1191.1191.5,~~  
35 ~~1192.2, 1192.4, 1192.6, 1192.7, 1192.95, 1192.10, 1194.8,~~  
36 ~~1194.81, 1194.82, 1194.85, 1198, and 1199.~~

37 SEC. 14. Section 12253 of the Revenue and Taxation Code is  
38 amended to read:

39 12253. Each insurer required to make prepayments shall  
40 remit them on or before each of the dates of April 1st, June 1st,

- 1 September 1st and December 1st of the current calendar year.
- 2 Remittances for prepayments shall be made payable to the
- 3 Controller and shall be delivered to the office of the
- 4 commissioner, accompanied by a prepayment form prescribed by
- 5 the commissioner.

O